

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, OCTOBER 31, 2006

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

CASE NO. SEC-2006-00026

MERRILL LYNCH, PIERCE, FENNER
& SMITH, INCORPORATED,

Defendant

SETTLEMENT ORDER

Based on an investigation conducted by the Division of Securities and Retail Franchising ("Division"), it is alleged that Merrill Lynch, Pierce, Fenner & Smith, Incorporated ("Defendant"): (1) violated Securities Rule 21 VAC 5-20-280 A 3 when the Defendant, through its registered agent Francis Lee Summers, III ("Summers"), recommended unsuitable transactions by advising a Virginia resident to sell stock shares to purchase other shares of stock that were unsuitable, given the investor's objectives; and (2) violated Securities Rule 21 VAC 5-20-260 B by failing to exercise diligent supervision over Summers' securities recommendations to a Virginia investor.

The State Corporation Commission ("Commission") is authorized by § 13.1-506 of the Act to revoke the Defendant's registration, by § 13.1-519 of the Act to issue temporary or permanent injunctions, by § 13.1-518 A of the Act to impose costs of investigation, by § 13.1-521 A of the Act to impose certain monetary penalties, and by § 12.1-15 of the Code of Virginia to settle matters within its jurisdiction.

The Defendant neither admits nor denies these allegations but admits to the Commission's jurisdiction and authority to enter this Settlement Order.

As a proposal to settle all matters arising from these allegations, the Defendant has made an offer of settlement to the Commission wherein the Defendant will abide by and comply with the following terms and undertakings:

(1) The Defendant, in lieu of paying a monetary penalty, has agreed and offered rescission to the Virginia investor in the amount of twenty-five thousand dollars (\$25,000).

(2) The Defendant will pay to the Commission, contemporaneously with the entry of this Order, the amount of eight thousand dollars (\$8,000) to defray the cost of investigation.

(3) The Defendant will not violate the Act in the future.

The Division has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

The Commission, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Division, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS THEREFORE ORDERED THAT:

(1) The offer of the Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;

(2) The Defendant fully comply with the aforesaid terms and undertakings of this settlement;

(3) The Defendant pay to the Commission, contemporaneously with the entry of the Order, the amount of eight thousand dollars (\$8,000) to defray the cost of investigation; and

(4) This case is dismissed and the papers herein shall be placed in the file for ended causes.

Dismissal of this case does not relieve the Defendant from its reporting obligations to any regulatory authority.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
Andrew Kandel, First Vice President/Assistant General Counsel, Merrill Lynch, Pierce,
Fenner & Smith, Incorporated, 222 Broadway, 13th Floor, New York, New York 10038; and the
Commission's Office of General Counsel and Division of Securities and Retail Franchising.

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Defendant

ADMISSION AND CONSENT

The Defendant, Merrill Lynch, Pierce, Fenner & Smith, Incorporated, admits to the jurisdiction of the State Corporation Commission ("Commission") as to the party and subject matter hereof, neither admits nor denies the allegations made herein by the Division of Securities and Retail Franchising, and hereby consents to the form, substance and entry of the foregoing Settlement Order.

The Defendant further states that no offer, tender, threat or promise of any kind whatsoever has been made by the Commission or any member, subordinate, employee, agent or representative thereof in consideration of the foregoing Settlement Order.

Merrill Lynch, Pierce, Fenner & Smith, Incorporated

Date: October 16, 2006

By:



Andrew Kandel
First Vice President/Assistant General Counsel